

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BECKY YEE,

Plaintiff,

- against -

WELL & GOOD, LLC,

Defendant.

Docket No. 17-cv-02574

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Becky Yee (“Yee” or “Plaintiff”), by and through her undersigned counsel, as and for her Complaint against Defendant Well & Good, LLC (“Well & Good” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of hairstylist John Masters owned and registered by Yee, a New York-based photographer. Accordingly, Yee seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Yee is a professional portrait photographer in the business of licensing her photographs to online, print, and television media outlets for a fee, having a usual place of business at 89 Walker Street, Apt. 3R, New York, NY 10013. Yee's photographs have appeared in many publications around the United States and throughout the world.

6. Upon information and belief, Well & Good is a limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 33 West 17th Street, 8th Floor, New York, New York 10011. At all times material hereto, Well & Good has owned and operated a website at the following URL: www.wellandgood.com (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. On August 1, 2006, Yee photographed hairstylist John Masters (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Yee is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the U.S. Copyright Office and was given pending Copyright Registration Number 1-4749170511. See Exhibit B.

B. Defendant's Infringing Activities

10. On March 25, 2010, Well & Good ran an article on the Website entitled *How to Fight Frizz Naturally*. See <https://www.wellandgood.com/good-advice/how-to-fight-frizz-naturally/>. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit C.

11. Well & Good did not license the Photograph from Plaintiff for its article, nor did Well & Good have Plaintiff's permission or consent to publish the Photograph on its Website.

12. Plaintiff first discovered Defendant's infringement of the Photograph on or about January 18, 2017.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST WELL & GOOD)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Well & Good infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on its Website. Well & Good is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the aforementioned acts of infringement by Well & Good have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

17. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover her damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

18. Defendant's conduct, described above, is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Well & Good be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: April 10, 2017
Valley Stream, New York

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